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TO: Mr. James C. Bowling

DATE: February 3, 1984

FROM: Gina M. Gallovich *gm*

Copy: HC, SP, SS, MAD

SUBJECT: A History of Fire Safety Legislation
Involving Tobacco Products

VC, PG, FS, TA, AH, FN
GW, HX, GW, ERM, CG

TI, WK, SC, HL, WK *bi* *JB*

It appears that the old adage that the more things change, the more they stay the same has been proved once again. The terms "self-snuffing" and "self-extinguishing" cigarettes were not used in legislative activities until 1975, but there were numerous bills that dealt with tobacco products and fire safety before that time.

It is believed that the earliest law on record was a decree by Czar Michael in the early 1600s that was a result of a devastating fire in Moscow caused by smokers. The czar, prompted by anxiety for the spiritual and material well-being of his subjects, ordered that for the first offense smokers would be whipped, and the second indulgence in tobacco would be rewarded with execution--devotees of snuff escaped with amputation of the nose. In the 1740s, Frederick the Great of Prussia issued an edict against careless smoking.

In the early 1900s in the United States, many pieces of proposed legislation dealt with the carrying or careless discarding of lighted tobacco products. Also, the threat of fire led to legislation prohibiting smoking in factories, transportation vehicles, public dining places, and barns. In 1922, the Massachusetts legislature received a bill, which was later withdrawn, that would have prohibited the manufacture and sale of cigarettes that burned after being discarded. Also in the 1920s, bills were considered in New York and Idaho that would have prohibited the use of non-inflammable or combustible paper for cigarettes.

The 1930s saw only one significant bill that concerned self-extinguishing cigarettes: In 1939 a bill was introduced in Oregon (it later died on adjournment of the legislature) that would have made it unlawful for anyone to offer for sale, sell or cause to be sold, cigarettes "whose ingredients are so compounded that they continue to burn or smolder when laid down or thrown away."

In the 1940s and early 1950s, there was a rash of bills prohibiting smoking near flammable objects, making it unlawful to drop or throw lighted cigarettes, cigars, etc. from any vehicle and prohibiting smoking on public transportation vehicles, in theatres and in air or marine terminals. Also, anti-smoking zealots made themselves known in Oklahoma by introducing a bill that later died in the House that would have prohibited smoking while situated in or on any bed in any hotel or motel.

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During the 1960s the first Surgeon General's report was issued and the Cigarette Labeling and Advertising Act was enacted, but it was a quiet decade in relation to the self-extinguishing cigarette issue. The states were busy enacting educational programs that would teach students about the harmful effects of smoking on the human body and adopting highway beautification laws. In 1969, Rep. Byrne (D-PA) presented an amendment to the cigarette labeling act that would have required that cigarette packs bear a statement on "fire hazards presented by smoking."

The 1970s, dubbed the "consumer action decade," brought with it a number of bills prohibiting smoking in certain areas (elevators, gas stations etc.), the Civil Aeronautics Board's order to commercial airlines to separate smokers and nonsmokers and the consideration of various propositions requiring smoking and nonsmoking sections in restaurants, offices, etc.

In 1974, the Consumer Product Safety Commission (CPSC), which does not have jurisdiction over cigarettes, rejected a petition by furniture manufacturers to regulate cigarette burning time before regulating upholstery flammability. During hearings on the CPSC Improvement Act in 1975 the late Senator Hart suggested that the commission have jurisdiction over cigarettes as a source of ignition. At this time he also supported the development of a cigarette that would self-extinguish in 10 minutes or less.

In 1979, the self-extinguishing cigarette issue heated up when the American Burn Association, the National Fire Protection Association and the International Association of Firefighters started a campaign to create consumer demand for self-extinguishing cigarettes. The California legislature passed a bill memorializing Congress to ban the production of cigarettes that do not self-extinguish in five minutes or less.

On the federal level that same year Rep. Andrew Jacobs (D-IN) introduced HR4944 which would have prohibited the addition of substances that would continue the burning of cigarettes. Rep. Joe Moakley (D-MA) introduced HR5504 which would have required cigarettes and cigars to stop burning five minutes after being ignited if not smoked. Also, levels of tar, nicotine and carbon monoxide would have been prohibited from increasing more than 5% "so as not to create additional health risks." Both bills died in committee.

In 1980, three states--Maryland, Hawaii and Illinois--introduced bills that were later defeated which dealt with the self-extinguishing issue. Two bills were introduced on the federal level. Rep. Moakley's "Cigarette Safety Act," HR6675, was to amend the CPSC Act to provide the commission with regulatory authority over cigarettes and set performance standards within 24 months so that cigarettes have a minimum capacity for igniting fires. Senators Cranston (D-CA) and Tsongas (D-MA) introduced S2215, a bill almost identical to Moakley's except the CPSC would have 18 months to promulgate performance standards. Both bills died in committee.

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In 1981, five state legislatures--Connecticut, Massachusetts, Maryland, Oregon, and Rhode Island--introduced self-extinguishing legislation. The Rhode Island bill memorializing Congress to pass a cigarette safety act was the only piece of legislation adopted. Three bills were introduced in Congress--Rep. Jacobs' HR877 (same as the one he introduced in 1979), Rep. Moakley's HR1854 (same as the 1980 bill), and Sen. Cranston's S51 (same as S2215 except the CPSC would have 48 months to develop performance standards)-- and died in committee.

In 1982, no new legislation was introduced on the federal level. However, six states--California, Connecticut, Illinois, Massachusetts, Michigan, and New York--considered and rejected eight pieces of legislation.

1983 proved to be the busiest year yet for self-extinguishing legislation: There were 20 bills considered in 11 states--California, Connecticut, Illinois, Massachusetts, Maryland, New York, Oregon, Pennsylvania, Rhode Island, Texas, and Virginia. Eight of these bills are to be carried over for consideration in 1984, and none of the others were adopted.

On the federal side Sen. Cranston reintroduced S51 (now giving the CPSC 24 months to develop performance standards) and Rep. Moakley introduced HR1880--virtually the same bills they introduced in prior years. Rep. Jacobs was responsible for HR1456 which has the same provisions as his previous bills. A new wrinkle in the issue was Senators Heinz, Danforth and Cranston's sponsorship of S1935 which would create a "Cigarette Safety Study Act" that would establish a federal interagency task force to study cigarette safety, including the feasibility of developing a cigarette which has a reduced propensity to ignite upholstered furniture and mattresses.

So far this year, three new bills (in Massachusetts, Maryland and Washington) and two carry-overs (in Pennsylvania and California) have been introduced at the state level.

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